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Note verbale dated 22 March 2018 from the United States Mission to the United Nations addressed to the Chair of the Committee

The United States of America has the honour to submit its national report on the implementation of Security Council resolution 2397 (2017) (see annex).

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Annex to the note verbale dated 22 March 2018 from the United States Mission to the United Nations addressed to the Chair of the Committee

Report of the United States of America on the implementation of Security Council resolution 2397 (2017)

The present report describes concrete measures through which the United States implements paragraphs 3 to 12 and 14 of resolution 2397 (2017) regarding the Democratic People's Republic of Korea. The United States considers it essential for Member States to implement the resolution fully and effectively. The United States intends to continue to support the efforts by other States, as requested and to the extent possible, to implement the resolution.

Among the measures through which the United States implements the relevant provisions of the resolution are the following:

Designations

Response to paragraph 3

The United States has designated the individuals and the entity listed in annexes I and II to resolution 2397 (2017) for an asset freeze under various authorities administered by the Department of the Treasury and the Department of State. Pursuant to public guidance issued by the Office of Foreign Assets Control, this freeze applies to entities that are 50 per cent or more owned by one or more designated persons. Individuals and entities acting on behalf or at the direction of a designated individual or entity, and entities that are controlled (but are not 50 per cent or more owned) by designated entities, may be subject to derivative designations under the authority used to designate the primary target.

The names of the individuals listed in annex I have been entered into the appropriate consular database for assessment, should an individual apply for a visa or entry. Individuals and entities acting on behalf or at the direction of a designated individual or entity may be subject to derivative designations under the authority used to designate the primary target.

The Department of Homeland Security has the authority to deny aliens entry into or transit through the United States based on grounds specified by the relevant laws and regulations, including, for example, title 8, section 1182 (a) (3) (A) (i) of the United States Code (seeking to enter the United States "to engage solely, principally, or incidentally in ... any activity ... to violate or evade any law prohibiting the export from the United States of goods, technology, or sensitive information"); section 1182 (a) (3) (C) (reason to believe entry "would have potentially serious adverse foreign policy consequences for the United States"); and section 1182 (f) (entry "would be detrimental to the interests of the United States").

Sectoral

Response to paragraphs 4, 5, 7 and 14

The Export Administration Regulations of the Department of Commerce prohibit the export from the United States to the Democratic People's Republic of Korea (or re-export from a third country) of all items subject to the Regulations, except food or medicine under classification "EAR99", unless otherwise authorized. An Export Administration Regulations licence requirement applies to all vessels, including tankers, subject to the Regulations, including United States and foreign-

origin vessels in which the value of the United States-origin content exceeds 10 per cent of the item's total value, regardless of flag. The Bureau of Industry and Security reviews licence applications for the export or re-export of crude oil, refined petroleum products, industrial machinery, iron, steel or other metals, and vessels subject to the Regulations on a case-by-case basis. A separate export or re-export licence requirement could apply to the vessel (regardless of flag) whether or not the items being transported are subject to the Regulations.

Section 3 (a) (i) of Executive Order 13722, administered by the Department of the Treasury in consultation with the Department of State, prohibits the exportation or re-exportation, directly or indirectly, from the United States or by a United States person, wherever located, of any goods, services or technology to the Democratic People's Republic of Korea, except as otherwise licensed or exempted. Under the Executive Order, the Office of Foreign Assets Control prohibits exports from abroad by United States persons of items not subject to the Regulations.

Since 1998, the Federal Aviation Administration has prohibited civil flight operations by United States-registered aircraft, except where the operator of such aircraft is a foreign air carrier, through the Pyongyang Flight Information Region west of 132 degrees east longitude, which includes the territorial airspace of the Democratic People's Republic of Korea. The flight prohibition also applies to all United States air carriers or commercial operators and all persons exercising the privileges of an airman certificate issued by the Federal Aviation Administration, except such persons operating United States-registered aircraft for foreign air carriers. Exceptions exist for (a) operations authorized by an exemption issued by the Federal Aviation Administration; (b) operations authorized by another agency of the Government of the United States with Federal Aviation Administration approval; and (c) in-flight emergencies. On 3 November 2017, the Federal Aviation Administration issued a notice to airmen expanding its flight prohibition to include all United States civil aviation operations in the Pyongyang Flight Information Region east of 132 degrees east longitude, which were previously allowed under Special Federal Aviation Regulation No. 79.

The United States Customs and Border Protection of the Department of Homeland Security can inspect all cargo on aircraft destined for or departing from the United States (see, e.g., title 19, sections 482 and 1499 of the United States Code) and seize and/or forfeit any article introduced or exported contrary to law or arms or munitions of war exported in violation of law, as well as any associated vessel or aircraft (see, e.g., title 19, section 1595 a and title 22, section 401 of the United States Code).

With respect to United States-flagged vessels, pursuant to title 14, section 89 of the United States Code, the United States Coast Guard of the Department of Homeland Security may board and inspect any United States-flagged vessel anywhere it is located, beyond the territorial sea of another country, to enforce United States laws. Within the United States contiguous zone (up to 24 nautical miles from the coastline of the United States), the United States Coast Guard and the United States Customs and Border Protection may board vessels destined for or departing from the United States, examine manifests and search cargo (see, e.g., title 19, sections 1581 and 1587, and title 14, section 89 of the United States Code).

If a vessel or aircraft is itself of United States origin, regardless of its flag, or if the value of the United States-origin parts of the vessel or aircraft exceeds 10 per cent of its total value, the vessel or aircraft itself is subject to the Export Administration Regulations, and a Bureau of Industry and Security licence would be required for the vessel or aircraft to travel to the Democratic People's Republic of Korea and for its re-export from that country to a third country. These export and re-export rules under

the Export Administration Regulations apply even if the prohibited items the vessel or aircraft is transporting are not themselves subject to the Regulations because they do not meet the de minimis threshold for controlled United States-origin content.

Response to paragraph 6

Section 1 of Executive Order 13570, administered by the Department of the Treasury in consultation with the Department of State, prohibits the importation into the United States, directly or indirectly, of any goods, services or technology from the Democratic People's Republic of Korea. Section 2 (a) of Executive Order 13570 prohibits any transaction by a United States person or within the United States that evades or avoids, has the purpose of evading or avoiding, causes a violation of or attempts to violate the prohibitions in Executive Order 13570.

In addition, wherever located, a United States person is prohibited by Executive Order 13722 from dealing in property in which a designated person, including the Government of the Democratic People's Republic of Korea, has any interest.

Since 1998, the Federal Aviation Administration has prohibited civil flight operations by United States-registered aircraft, except where the operator of such aircraft is a foreign air carrier, through the Pyongyang Flight Information Region west of 132 degrees east longitude, which includes the territorial airspace of the Democratic People's Republic of Korea. The flight prohibition also applies to all United States air carriers or commercial operators and all persons exercising the privileges of an airman certificate issued by the Federal Aviation Administration, except such persons operating United States-registered aircraft for foreign air carriers. Exceptions exist for (a) operations authorized by an exemption issued by the Federal Aviation Administration; (b) operations authorized by another agency of the Government of the United States with Federal Aviation Administration approval; and (c) in-flight emergencies. On 3 November 2017, the Federal Aviation Administration issued a notice to airmen expanding its flight prohibition to include all United States civil aviation operations in the Pyongyang Flight Information Region east of 132 degrees east longitude, which were previously allowed under Special Federal Aviation Regulation No. 79.

The United States Customs and Border Protection of the Department of Homeland Security can inspect all cargo on aircraft destined for or departing from the United States (see, e.g., title 19, sections 482 and 1499 of the United States Code), and seize and/or forfeit any article introduced or exported contrary to law, or arms or munitions of war exported in violation of law, as well as any associated vessel or aircraft (see, e.g., title 19, section 1595a and title 22, section 401 of the United States Code).

With respect to United States-flagged vessels, pursuant to title 14, section 89 of the United States Code, the United States Coast Guard may board and inspect any United States-flagged vessel anywhere it is located, beyond the territorial sea of another country, to enforce United States laws. Within the United States contiguous zone (up to 24 nautical miles from the coastline of the United States), United States Coast Guard and the United States Customs and Border Protection may board vessels destined for or departing from the United States, examine manifests and search cargo (see, e.g., title 19 sections 1581 and 1587, and title 14, section 89 of the United States Code).

If a vessel or aircraft is itself of United States origin, regardless of its flag, or if the value of the United States-origin parts of the vessel or aircraft exceeds 10 per cent of its total value, the vessel or aircraft itself is subject to the Export Administration Regulations, and a Bureau of Industry and Security licence would be required for the vessel or aircraft to travel to the Democratic People's Republic of Korea and for its

re-export from that country to a third country. The export and re-export rules under the Export Administration Regulations apply even if the prohibited items the vessel or aircraft is transporting are not themselves subject to the Regulations because they do not meet the de minimis threshold for controlled United States-origin content.

Response to paragraph 8

Currently there are very few nationals of the Democratic People's Republic of Korea who have authorization to work in the United States. The majority of those who do were granted refugee status or asylum status or are currently applying for asylum (see North Korean Human Rights Act of 2004, Public Law No. 108-133).

On 24 September 2017, President Trump issued Proclamation No. 9645, which, among other things, suspends the entry into the United States of nationals of the Democratic People's Republic of Korea, subject to certain exceptions and waivers. The Proclamation restricts entry into the United States of nationals of the Democratic People's Republic of Korea who were outside the United States as at 18 October 2017, if they did not have a valid visa on that date and if they do not qualify for a visa or other valid travel document based on revocation or cancellation of a visa as a result of Executive Order 13769.

The Proclamation provides exceptions to this restriction for nationals of the Democratic People's Republic of Korea who (a) are lawful permanent residents of the United States; (b) are admitted to or paroled into the United States on or after 18 October 2017; (c) have a document other than a visa valid on 18 October 2017 or issued on any date thereafter, that permits them to travel to the United States and seek entry or admission; (d) are dual nationals of a non-designated country traveling on a passport issued by the non-designated country; (e) are travelling on a diplomatic or diplomatic-type visa; or (f) are applying for or have been granted asylum in the United States, are refugees who have already been admitted into the United States, or are applying for or have been granted protection from removal under the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. The Proclamation also provides for case-by-case waivers if it is determined that denying entry would cause undue hardship, that entry would not pose a threat to national security or public safety and that entry would be in the national interest. In addition, bringing individuals who are ordinarily resident in the Democratic People's Republic of Korea to the United States for work is a prohibited importation of services from that country under section 1 of Executive Order 13570.

A national of the Democratic People's Republic of Korea in the United States who does not have and is not seeking asylum status or related protection could be removed under title 8, section 1182 (grounds of inadmissibility) and section 1227 (grounds of removability) of the United States Code, depending on the manner of entry, any criminal activity, fraud or misrepresentation, and any actions or attempted actions that could adversely affect national security or foreign policy.

Key provisions authorizing removal include title 8, sections 1182 (a) (3) (C) and 1227 (a) (4) (C) of the United States Code (rendering inadmissible or deportable, subject to exceptions, any alien whose presence or activities in the United States the Secretary of State has reasonable ground to believe would have potentially serious adverse foreign policy consequences for the United States).

Other provisions authorizing removal include title 8, section1227 (a) (4) (A) (relating to national security, including activity to violate or evade any law prohibiting export of goods, technology or sensitive information); and section 1227(a) (4) (B) (relating to terrorist activities).

Response to paragraph 9

With respect to United States-flagged vessels, pursuant to title 14, section 89 of the United States Code, the United States Coast Guard may board and inspect any United States-flagged vessel anywhere it is located, beyond the territorial sea of another country, to enforce United States laws. Within the United States contiguous zone (up to 24 nautical miles from the coastline of the United States), the United States Coast Guard and the United States Customs and Border Protection may board vessels destined for or departing from the United States, examine manifests and search cargo (see, e.g., title 19, sections 1581 and 1587, and title 14, section 89 of the United States Code).

The United States will implement the vessel freeze provision in paragraph 9 of the resolution under Executive Order 13382, which allows the United States to block or "freeze" the property and assets, subject to United States jurisdiction, of weapons of mass destruction proliferators and their supporters, as well as other North Korea-related Executive Orders, including 13551, 13687, 13722 and 13810, all of which provide the authority to designate persons in connection with North Korea's activities and identify vessels as the blocked property of those persons.

Response to paragraph 10

The United States stands ready to respond promptly to requests for additional maritime and shipping information from other Member States.

Response to paragraphs 11 and 12

Section 3 (a) (i) of Executive Order 13722, administered by the Department of the Treasury in consultation with the Department of State, prohibits the exportation or re-exportation, directly or indirectly, from the United States, or by a United States person, wherever located, of any goods, services or technology to the Democratic People's Republic of Korea, except as otherwise licensed or exempted. Under the Executive Order, the Office of Foreign Assets Control prohibits exports from abroad by United States persons. Further, wherever located, a United States person is prohibited by Executive Order 13722 from dealing in property in which a designated person, including the Government of the Democratic People's Republic of Korea, has any interest.